

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
NO. 5:06-CR-62-1FL  
NO. 5:06-CR-62-2FL  
NO. 5:06-CR-62-3FL

UNITED STATES OF AMERICA, )  
                                  )  
                                  )  
v.                              )  
                                  )  
DONALD W. GUPTON, INC., )  
d/b/a Dynasty Homes of Henderson )  
d/b/a Superior House Center )  
d/b/a Creative Real Estate and )  
Manufactured Housing Sales Center )  
CRE PROPERTIES, LLC , )  
M & G PROPERTIES II, INC. )

ORDER

**ORDER APPROVING SETTLEMENT AGREEMENTS AND  
FINAL ORDER OF FORFEITURE**

WHEREAS, on July 25, 2006, this court entered a Preliminary Order of Forfeiture pursuant to the provisions of 18 U.S.C. § 1982, based upon the defendants pleading guilty to 18 U.S.C. § 956(h), and agreeing to the forfeiture of the property listed in the July 25, 2006 Preliminary Order of Forfeiture, to wit:

**Real Property**

As described in the Indictment dated March 8, 2006 and attached hereto as Exhibit A;

**Personal Property**

A 1978 Piper, Model PA-28-161, VIN: 28-7916233;

**Miscellaneous Assets**

Any assets and/or interest of the defendants in the following businesses: DONALD W. GUPTON, INC., d/b/a Dynasty Homes of Henderson, d/b/a Superior House Center, d/b/a Creative Real Estate and Manufacturing Housing Sales Center, CRE PROPERTIES, LLC., and

M & G PROPERTIES II, INC.;

AND WHEREAS, on August 11, 2006, the court entered a First Preliminary Order for Substitute Assets against the defendant, CRE Properties, LLC, forfeiting to the United States the defendants interest in the following property:

**Real Property**

As described in Attachment A to the Memorandum of Plea Agreement dated July 18, 2006, and legally described in Deed Book 703, Pages 946-948 of the Warren County Register of Deeds, North Carolina, specifically, Lots 2-31 and Lots 33-35.

AND WHEREAS, on September 27, 2006, the United States published in a newspaper of general circulation notice of this forfeiture and of the intent of the United States to dispose of the property in accordance with the law, and further notifying all third parties of their right to petition the Court within thirty (30) days for a hearing to adjudicate the validity of their alleged legal interest in the property;

AND WHEREAS, on February 16, 2007, Fidelity Bank advised the United States of its interest in certain real property subject to forfeiture in this action, specifically:

- a) Property legally described at Book 841, Page 364 of the Vance County Registry, North Carolina, and titled in the name of M & G Properties, Inc.
- b) Property legally described at Book 847, Page 251 of the Vance County Registry, North Carolina, and titled in the name of Donald W. Gupton, Inc.
- c) Property legally described at Book 919, Page 238 of the Vance County Registry, North Carolina, and titled in the name of CRE Properties, LLC;

AND WHEREAS, on February 21, 2007, First Citizens Bank & Trust Company filed a petition as to its interest in certain real property subject to forfeiture in this action, specifically:

a) Being all of Lots 69-88, 90, 92-100 and 102-125 of Crowder Farms Subdivision as shown on Plat Book W Page 81A, B, and C, Vance County Registry, North Carolina.

b) Being all of Lots 20, 36, 82, 83, 86, 89-96, 99 and 100 of Key Estates Subdivision as shown on Plat Book V Page 825, Vance County Registry, North Carolina;

AND WHEREAS, Assistant United States Attorney Stephen A. West represents to the court that on April 16, 2007, a Settlement Agreement was entered into by the United States and Petitioner, Fidelity Bank, by and through its counsel of record, James E. Cross, Jr. Assistant United States Attorney Stephen A. West represents that the parties agree that the defendant property is to be sold by the United States in the most commercially feasible means, as determined by the sole discretion of the United States Department of the Treasury, to wit:

a) Property legally described at Book 841, Page 364 of the Vance County Registry, North Carolina, and titled in the name of M & G Properties, Inc.

b) Property legally described at Book 847, Page 251 of the Vance County Registry, North Carolina, and titled in the name of Donald W. Gupton, Inc.

c) Property legally described at Book 919, Page 238 of the Vance County Registry, North Carolina, and titled in the name of CRE Properties, LLC;

AND WHEREAS, Assistant United States Attorney Stephen A. West represents to the court that on April 18, 2007, a Settlement Agreement was entered into by the United States and Petitioner, First Citizens Bank & Trust Company, by and through its counsel of record, Benjamin E.F.B. Waller. Assistant United States Attorney Stephen A. West represents that the parties agree that the subject property listed in the April 18, 2007 Settlement Agreement is to be sold by the United States in the commercially feasible means, as determined by the sole discretion of the United States Department of the Treasury. Additionally, Assistant United States Attorney

Stephen A. West represents that the parties agree that at the time the property is sold, the proceeds of the sale, after the payment of the costs of sale, will be used to pay the full outstanding balance of the lien that First Citizens has on the defendant property, with the remainder to the United States. The payoff balance as of February 13, 2007 is in the amount of Three Hundred Thirteen Thousand Three Hundred Eighty and 91/100 Dollars (\$313,380.91), plus interest thereafter at the rate of Sixty-Two and 45/100 Dollars (\$62.45) per day until paid in full, as well as attorneys fees and expenses in the amount of Nine Thousand Five Hundred Fifty-Five and 13/100 Dollars (\$9,555.13). In the event that the United States determines that the amount for which the property can be sold would be insufficient to pay the full balance due First Citizens, it shall convey its interest in the property to First Citizens by non-warranty deed;

AND WHEREAS, it appears from the record that no other claims, contested or otherwise, have been filed for any of the properties described in this Court's July 25, 2006 Preliminary Order of Forfeiture, or its August 18, 2006 First Preliminary Order for Substitute Assets, other than those specifically mentioned herein;

Based on the record herein and the representations of the Government, it hereby is  
ORDERED:

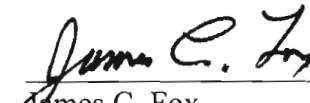
1. That the Settlement Agreement that the Government represents was entered into on April 16, 2007, between the United States and Petitioner, Fidelity Bank, is approved.
2. That the Settlement Agreement that the Government represents was entered into on April 18, 2007, between the United States and Petitioner, First Citizens Bank & Trust Company, is approved.
3. That the property listed in the July 25, 2006 Preliminary Order of Forfeiture and the August 18, 2006 First Preliminary Order for Substitute Assets is hereby forfeited to the United

States subject to the provisions of the Settlement Agreements approved herein. The United States Department of the Treasury is directed to dispose of the property according to law.

4. That any and all forfeited funds shall be deposited by the United States Department of the Treasury as soon as located or recovered into the Department of the Treasury's Assets Forfeiture Fund in accordance with 28 U.S.C. § 524(c) and 21 U.S.C. § 881(e), provided that \$191,062.72 shall first be paid to the Clerk of Court for the Eastern District of North Carolina to partially satisfy the defendants restitution obligation.

SO ORDERED.

This the 21<sup>st</sup> day of August, 2007.

  
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James C. Fox  
Senior United States District Judge